

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number  Rebecca A. Caley, CBN 131997 Tina M. Starr, CBN 231309 CALEY & ASSOCIATES 265 S. Randolph Avenue, Suite 270 Brea, CA 92821-5777 714/529-1400 Telephone 714/529-1515 Fax rcaley@caleylaw.com	FOR COURT USE ONLY  9900-265
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA</b>	
In re Douglas Luberts,	CASE NUMBER 1:03-17833-MT
	HEARING DATE: 11/10/09
	TIME: 11:00 a.m.
Debtor.	PLACE: Courtroom 302, 3rd Floor

### MOTION FOR ORDER RELEASING UNCLAIMED FUNDS

I, under penalty of perjury under the laws of the United States of America declare (or certify, verify, or state) that the following statements and information are true and correct:

1. I request an order releasing the total amount of \$ 3,503.15 which is the sum of all monies deposited with the court on the following date(s) August 19, 2009 on behalf of the creditor BMW Financial Services on claim number(s) 1 and replaced by Claim #16

2. Please check and complete the applicable subparagraph(s) below:

- a. I am the creditor named in paragraph 1.
- b. I am an employee of the creditor named in paragraph 1 and my title is Bankruptcy/Replevin Specialist. The creditor is still legally entitled to the monies and I am authorized by the creditor to this petition. Submit evidence establishing authority to act on behalf of creditor.
- c. I am the creditor and have appointed \_\_\_\_\_ as my lawful attorney-in-fact who is duly authorized by the attached original power of attorney to file this motion.
- d. Subparagraphs a, b, and c above do not apply, but I am entitled to payment of such monies because (submit evidence establishing basis for right to obtain payment).

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3. Please complete each of the following subparagraphs:

- a. The following is the creditor's address and phone number:

BMW Financial Services NA, LLC

Mailing address: P.O. Box 3608, Dublin, OH 43016-0306

Physical address: 5550 Britton Parkway, Hilliard, OH 43026-7456

Telephone: 800/398-3939

- b. A brief history of the creditor (from the filing of the claim to the present) which includes, if applicable, identification of any sale of the company and the new and prior owner(s). Submit evidence establishing the sale of the company from the prior to the new owner(s):

BMW Bank of North America, a wholly owned subsidiary of BMW Financial Services NA, LLC, filed a Proof of Claim on

10/07/03, identified as Claim #1 for \$20,016.92. The claim was amended and replaced by a claim filed on 12/22/03, for

\$20,475.00. Finally, on 2/02/04, the claim was amended and replaced by Claim #16 for \$20,475.00 (\$2,825.00 unsecured

and \$17,650.00 secured). At the time the claims were prepared and filed, the physical address for BMW Financial Services

was 5515 Park Center Circle, Dublin, OH 43017. [See three claims marked as Exhibits "1", "2" and "3", respectively.]

BMW Financial Services has since relocated to its present location at 5550 Britton Parkway, Hilliard, OH 43026-7456 and \*

4. I understand that, pursuant to 18 U.S.C. § 152, I may be fined or imprisoned, or both, if I have knowingly and fraudulently made any false statements in this document.

\*mailing address of P.O. Box 3608, Dublin, OH 43016-0306. On December 15, 2008, trustee Elizabeth Rojas prepared and filed a Notice of Intent to Pay Claim (Change of Creditor Address). According to the notice, the trustee was notified of BMW Financial's new address and gave the debtor, his counsel and any other interested party 15 days to object to the trustee paying the creditor's claim at the new address. The notice lists BMW Financial's PREVIOUS ADDRESS as 5515 Parkcenter Circle, Dublin, OH 43017 and its CURRENT ADDRESS as 5550 Britton Parkway, Hilliard, OH 43026. [See Notice of Intent to Pay Claim attached hereto as Exhibit "4".]

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(Corporate Seal

if applicable)

D Berarducci  
Signature of Creditor/Successor

BMW Financial Services NA, LLC

Type or Print Creditor's/Successor's Name

5550 Britton Parkway

Creditor's/Successor's Address

Hilliard, OH 43026-7456

OHIO  
STATE OF CALIFORNIA, COUNTY OF Franklin  
On SEPTEMBER 18, 2009 before me, personally appeared (insert name and title of the signer)  
D. BERARDUCCI / BANKRUPTCY/REPLEVIN SPECIALIST

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. WITNESS my hand and official seal.

(SEAL)

William J. Westrick  
Notary Public Seal  
My Commission Expires on WILLIAM J. WESTRICK  
ROTARY PUBLIC STATE OF OHIO  
MY COMMISSION EXPIRES 3-27-13

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**PROOF OF SERVICE**

I hereby certify under penalty of perjury under the laws of the United States of America that on 9/25/09, I mailed in a sealed envelope, with postage thereon fully prepaid, a fully completed true and correct copy of the document described as "Motion for Order Releasing Unclaimed Funds" to the United States Attorney, United States Trustee, and other persons and entities required to be served by Local Bankruptcy Rule 3011-1(b) and addressed as follows:

UNITED STATES TRUSTEE  
21051 Warner Center Lane, Suite 115  
Woodland Hills, CA 91367

UNITED STATES ATTORNEY  
United States Attorneys' Office  
Federal Building, Room 7516  
300 N. Los Angeles Street  
Los Angeles, CA 90012

Please insert the name and address of the trustee appointed in the case and the trustee's counsel, if any:

Elizabeth F. Rojas, Trustee

15060 Ventura Blvd., Suite 240

Sherman Oaks, CA 91403

Please insert the name and address of the Debtor, Debtor in Possession, reorganized Debtor, or other fiduciary appointed to supervise the distribution of funds and assets of the estate (if not the claimant) and their counsel, if any:

Douglas W. Luberts, Debtor

416 Euclid Avenue, #1

Oakland, CA 94610

Patricia Said, Attorney for Debtor

13443 McCormick Street

Sherman Oaks, CA 91401

If Movant is not the original creditor or an employee thereof, please insert the name and address of the original creditor and the creditor's counsel, if any:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9/25/09  
Date

Kiana I. Law  
Signature

Kiana I. Law  
Type or Print Name